



House of Representatives

General Assembly

File No. 518

January Session, 2015

Substitute House Bill No. 6035

House of Representatives, April 8, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE APPLICATION OF PESTICIDES AT STATE FACILITIES AND AUTHORIZING THE USE OF CERTAIN MICROBIALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) As used in this
2 section:

3 (1) "Pesticide" means a fungicide used on plants, an insecticide, an
4 herbicide or a rodenticide, but does not mean a sanitizer, a
5 disinfectant, an antimicrobial agent or a pesticide bait in a tamper-
6 proof container;

7 (2) "Microbial pesticide" means a pesticide that consists of a
8 microorganism as the active ingredient;

9 (3) "Biochemical pesticide" means a naturally occurring substance
10 that controls pests by nontoxic mechanisms;

11 (4) "Lawn care pesticide" means a pesticide registered by the United

12 States Environmental Protection Agency and labeled pursuant to the
13 federal Insecticide, Fungicide and Rodenticide Act for use in lawn,
14 garden and ornamental sites or areas. "Lawn care pesticide" does not
15 include (A) a microbial pesticide or biochemical pesticide that is
16 registered with the United States Environmental Protection Agency,
17 (B) a horticultural soap or oil that is registered with the United States
18 Environmental Protection Agency and does not contain any synthetic
19 pesticide or synergist, or (C) a pesticide classified by the United States
20 Environmental Protection Agency as an exempt material pursuant to
21 40 CFR 152. 25, as amended from time to time;

22 (5) "Certified pesticide applicator" means a pesticide applicator with
23 (A) supervisory certification under section 22a-54 of the general
24 statutes, or (B) operational certification under section 22a-54 of the
25 general statutes, who operates under the direct supervision of a
26 pesticide applicator with such supervisory certification;

27 (6) "Controlling authority" means the executive head of any state
28 agency or public institution of higher education who is responsible for
29 the maintenance of any property under the custody, control or care of
30 such state agency; and

31 (7) "State agency" has the same meaning as provided in section 4-37e
32 of the general statutes except The University of Connecticut Research
33 Farm shall not constitute a state agency for purposes of this section.

34 (b) No person other than a certified pesticide applicator shall apply
35 pesticide on any property that is under the custody, control or care of
36 any state agency, except a person other than a certified pesticide
37 applicator may make an emergency application of pesticide to
38 eliminate an immediate threat to human health, including, but not
39 limited to, the elimination of mosquitoes, ticks and stinging insects,
40 provided (1) the controlling authority determines such emergency
41 application of pesticide to be necessary, (2) the controlling authority
42 deems it impractical to obtain the services of a certified pesticide
43 applicator, and (3) such emergency application of pesticide does not
44 involve a restricted use pesticide, as defined in section 22a-47 of the

45 general statutes.

46 (c) No person shall apply a lawn care pesticide on the grounds of
47 any property that is under the custody, control or care of any state
48 agency, except an emergency application of pesticide may be made to
49 eliminate an immediate threat to human health, including, but not
50 limited to, the elimination of mosquitoes, ticks and stinging insects,
51 provided (1) the controlling authority determines such emergency
52 application of pesticide to be necessary, and (2) such emergency
53 application of pesticide does not involve a restricted use pesticide, as
54 defined in section 22a-47 of the general statutes.

55 (d) Prior to providing for any application of pesticide on the
56 grounds of any property that is under the custody, control or care of
57 any state agency, the controlling authority shall, within the existing
58 budgetary resources available to the controlling authority, provide
59 public notice of such application not later than twenty-four hours prior
60 to such application of pesticide. Such public notice shall be posted on
61 the Internet web site of the applicable state agency. If a controlling
62 authority determines an emergency application of pesticide to be
63 necessary pursuant to subsection (c) of this section, such notice shall be
64 given as soon as practicable. Notice under this subsection shall include
65 (1) the name of the active ingredient of the pesticide being applied, (2)
66 the target pest, (3) the location of the application of pesticide on the
67 grounds of the property that is under the custody, control or care of
68 such state agency, and (4) the date or proposed date of the application
69 of pesticide. A copy of each notice of such application of pesticide at
70 property that is under the custody, control or care of any state agency
71 shall be maintained by the applicable controlling authority for a period
72 of five years from the date of application of the pesticide and available
73 to members of the public.

74 Sec. 2. Section 10-231a of the general statutes is repealed and the
75 following is substituted in lieu thereof (*Effective from passage*):

76 As used in sections 10-231b to 10-231d, inclusive, [and section 19a-
77 79a,] (1) "pesticide" means a fungicide used on plants, an insecticide, a

78 herbicide or a rodenticide, but does not mean a sanitizer, disinfectant,
 79 antimicrobial agent or pesticide bait in a tamper-resistant container, (2)
 80 "lawn care pesticide" means a pesticide registered by the United States
 81 Environmental Protection Agency and labeled pursuant to the federal
 82 Insecticide, Fungicide and Rodenticide Act for use in lawn, garden and
 83 ornamental sites or areas. "Lawn care pesticide" does not include any:
 84 (A) Microbial pesticide or biochemical pesticide that is registered with
 85 the United States Environmental Protection Agency, (B) horticultural
 86 soap or oil that is registered with the United States Environmental
 87 Protection Agency and that does not contain any synthetic pesticide or
 88 synergist, or (C) a pesticide classified by the United States
 89 Environmental Protection Agency as an exempt material under 40 CFR
 90 152.25, as amended from time to time, [and] (3) "integrated pest
 91 management" means use of all available pest control techniques,
 92 including judicious use of pesticides, when warranted, to maintain a
 93 pest population at or below an acceptable level, while decreasing the
 94 use of pesticides, (4) "microbial pesticide" means a pesticide that
 95 consists of a microorganism as the active ingredient, and (5)
 96 "biochemical pesticide" means a naturally occurring substance that
 97 controls pests by nontoxic mechanisms.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>from passage</i>	10-231a

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Treasurer, Debt Serv.	GF - Acceleration of Debt Service Costs	Potential	Potential
UConn; CRDA	Various - Cost	Potential	Potential

Note: Various=Various; GF=General Fund

Municipal Impact: None

Explanation

The bill establishes limitations on certain pesticide applications, to state agency property except the University of Connecticut Research Farm, except for emergency applications.

The bill may result in total one-time costs to the University of Connecticut (UConn) of \$3 million - \$9 million (\$1 million - \$3 million for each of the three athletic fields at the main campus) associated with properly maintaining the fields for intercollegiate competition, which must be maintained to National Collegiate Athletic Conference (NCAA) and American Athletic Conference expectations in order to mitigate risk to student athletes.

The bill may also result in costs to the Capital Region Development Authority (CRDA) for properly maintaining their football field at Rentschler Field, estimated to be \$1 million - \$3 million.

CRDA receives General Obligation (GO) bond funds from the state to finance alterations and improvements at Rentschler Field. The

current unallocated balance available is \$832,500.¹ Future General Fund debt service costs may be incurred sooner under the bill to the degree that the bill causes authorized GO bond funds to be expended more rapidly than they otherwise would have been.

There may be additional costs to CRDA's other funding sources (e.g. operating revenue, private funding) to the extent that available GO bond funds do not cover the total potential cost of the field.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ These GO bond funds are also available for improvements at the Convention Center. According to CRDA \$417,500 of the unallocated balance will be used to repair and caulk the lower bowl and for life safety items.

OLR Bill Analysis**sHB 6035*****AN ACT CONCERNING THE APPLICATION OF PESTICIDES AT STATE FACILITIES AND AUTHORIZING THE USE OF CERTAIN MICROBIALS.*****SUMMARY:**

This bill imposes certain restrictions on applying pesticide, including lawn care pesticide, to state agency property, but not the University of Connecticut (UConn) Research Farm. The bill establishes electronic public notice requirements for these applications. Existing law requires state departments, agencies, or institutions to use integrated pest management (IPM) at their facilities if the Department of Energy and Environmental Protection (DEEP) has a model pest control management plan for them (CGS § 22a-66l) (see BACKGROUND). DEEP has a model plan.

The bill exempts certain products from the ban on nonemergency application of lawn care pesticide on the grounds of public or private preschools or schools with students in grade eight or lower. It also specifies that to be exempt from the law's pesticide application requirements for schools, sanitizers, disinfectants, antimicrobial agents, and pesticide baits must be in tamper-resistant containers.

Lastly, the bill makes a technical change, removing an unnecessary reference to the day care center statutes.

EFFECTIVE DATE: October 1, 2015, except the lawn care pesticide exemption for school ground application takes effect upon passage.

APPLICATION ON STATE AGENCY PROPERTY***State Property Affected***

The bill's pesticide, including lawn care pesticide, application

restrictions generally apply to any property under a state agency's care, control, or custody. This includes each state authority, board, commission, council, department, institution, office, or other state agency, including public higher education institutions (CGS § 4-37e). But the bill excludes the UConn Research Farm.

Non-Lawn Care Pesticide

The bill generally prohibits anyone who is not a DEEP-certified pesticide applicator from applying pesticide on state agency property (see BACKGROUND). But anyone can make an emergency application to eliminate an immediate human health threat, such as from mosquitoes, ticks, and stinging insects, if:

1. the executive head of a state agency or public higher education institution who is responsible for the agency's or institution's property's maintenance (the "controlling authority") finds the application is necessary,
2. he or she thinks it is impractical to obtain a certified applicator, and
3. the application does not involve a U.S. Environmental Protection Agency (EPA)- or DEEP-restricted use pesticide.

For purposes of applying pesticide on these grounds, a pesticide is a fungicide used on plants, an insecticide, an herbicide, or a rodenticide, but not a sanitizer, disinfectant, antimicrobial agent, or pesticide bait in a tamper-proof container.

Lawn Care Pesticide

The bill bans applying lawn care pesticide on the same state grounds (see above), except for emergency applications to eliminate immediate human health threats.

For an emergency lawn care pesticide application to occur under the bill, the (1) controlling authority must determine the emergency application is needed and (2) application cannot involve an EPA- or

DEEP-restricted use pesticide.

For these state property applications, lawn care pesticides include the same products as the bill applies to school ground applications (see below).

Notice

Before pesticide can be applied to state property covered by the bill's requirements, the bill requires public notice of the application at least 24 hours in advance. But if the controlling authority determines an emergency application of lawn care pesticide is needed, the notice must be provided as soon as practicable.

The bill requires the notice to be made by the controlling authority within existing budgetary resources. The notice must be posted on the applicable state agency's website and include the:

1. pesticide's active ingredient,
2. target pest, and
3. date or proposed date and location of the application.

The controlling authority must keep a copy of each notice for five years from the pesticide application date. All copies must be available to the public.

PESTICIDE USE ON SCHOOL GROUNDS***Lawn Care Pesticides***

Current law prohibits the use of lawn care pesticide on the grounds of preschools and schools with students in grade eight or lower, absent a human health emergency. A "lawn care pesticide" is a pesticide (1) registered by EPA and (2) labeled according to federal law for use in lawns, gardens, and ornamental sites or areas.

The bill exempts the following products from this definition, thus allowing their application on the grounds of these schools:

1. EPA-registered microbial or biochemical pesticides,
2. horticultural soaps or oils registered with EPA and without any synthetic pesticide or synergist (enhancer of pesticide properties), and
3. certain pesticides classified by EPA as exempt material (see BACKGROUND).

Under the bill, a “microbial pesticide” is a pesticide that has a microorganism as the active ingredient, and a “biochemical pesticide” is a naturally occurring substance that controls pests by nontoxic means.

Non-Lawn Care Pesticides

Under current law regarding school pesticide application, a “pesticide” is a fungicide used on plants, insecticide, herbicide, or rodenticide, but not a sanitizer, disinfectant, antimicrobial agent, or pesticide bait. The bill specifies that, to be excluded from the definition and exempt from the law’s pesticide application requirements for schools, the sanitizers, disinfectants, antimicrobial agents, and baits must be in tamper-resistant containers.

BACKGROUND

IPM

By law, IPM is the use of all available pest control techniques, including judicious pesticide use, when needed, to maintain a pest population at or below an acceptable level, while decreasing pesticide use (CGS § 22a-47(dd)).

Pesticide Applicator Certification

Under the Connecticut Pesticide Control Act (CGS § 22a-46 et seq.), anyone who uses or supervises the use of a restricted use pesticide in the state must have a private or commercial certificate or permit unless the use is directly supervised by a certified applicator.

Exempt Pesticides

Certain pesticides and pesticide classes do not need regulation under the federal Insecticide, Fungicide, and Rodenticide Act. They include:

1. pheromones and similar compounds used in pheromone traps;
2. preservatives for biological specimens (e.g., embalming fluids);
3. products consisting of food to attract pests;
4. natural cedar;
5. minimum-risk pesticides (i.e., containing certain active ingredients); and
6. treated articles or substances (40 CFR 152.25).

Related Bills

sHB 6897, File 184, reported favorably by the Children's Committee, (1) contains a similar provision exempting certain products from the school pesticide application law's definition of lawn care pesticide and (2) bans nonemergency applications of pesticide and lawn care pesticide in state-operated parks, athletic fields, and playgrounds.

sSB 366, reported favorably by the Environment Committee, contains an identical provision exempting certain products from the school pesticide application law's definition of lawn care pesticide.

sSB 1063, reported favorably by the Environment Committee, also contains an identical provision exempting certain products from the school pesticide application law's definition of lawn care pesticide.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 17 Nay 12 (03/20/2015)